

AMENDED IN SENATE JUNE 16, 2016

AMENDED IN ASSEMBLY MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2133

Introduced by Assembly Member Chu

February 17, 2016

An act to ~~add Section 8221.6 to the Education Code, amend Section 1596.86 of, and to add Section 1596.864 to, the Health and Safety Code, relating to child care and development.~~ *care.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2133, as amended, Chu. Child care: ~~alternative payment programs; complaint process; provider training.~~

Existing law requires the State Department of Social Services to license and regulate family day care home providers and to regulate other nonlicensed persons who provide in-home child care. Violation of these provisions is a crime.

This bill, as of July 1, 2017, would require a family child care provider, as defined, to attend a one-time, two-hour training on occupational health and safety risks specific to the child care profession and how to identify and avoid those risks to protect the provider's own health and safety and the health and safety of the children in his or her care. The bill would require the Department of Industrial Relations to

select an entity to provide the training required, based on a competitive process, and would require the State Department of Social Services to administer the contract with that entity. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the Child Care and Development Services Act, requires the State Department of Education to contract with local contracting agencies for alternative payment programs that are intended to allow for maximum parental choice in child care.~~

~~This bill would provide that a licensed or license-exempt child care provider who receives payment through a designated alternative payment program may file a complaint, alleging that the alternative payment program has not complied with federal or state law or regulation, pursuant to the Uniform Complaint Procedures in the California Code of Regulations, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares both of the*
- 2 *following:*
- 3 (a) *Improving occupational health and safety in all lines of work*
- 4 *is a priority for the State of California, and that focus should extend*
- 5 *to family child care providers. Improving health and safety for*
- 6 *family child care providers will also protect the health and safety*
- 7 *of the children under their care, because a safer and healthier*
- 8 *environment for family child care providers means a safer and*
- 9 *healthier environment for children.*
- 10 (b) *Family child care providers are at risk for occupational*
- 11 *health and safety hazards on the job, including from toxic*
- 12 *chemicals, illness, stress, and physical hazards such as lifting and*
- 13 *bending. According to the Bureau of Labor Statistics, child care*
- 14 *workers have musculoskeletal injury rates comparable to those of*
- 15 *industrial truck and tractor operators and construction equipment*

1 *operators. Since family child care providers are not covered by*
2 *workers' compensation insurance, it is particularly important to*
3 *them and to the children under their care that they be trained to*
4 *avoid injury and illness on the job.*

5 *SEC. 2. Section 1596.86 of the Health and Safety Code is*
6 *amended to read:*

7 1596.86. (a) The director shall annually publish and make
8 available to interested persons a list or lists covering all licensed
9 child day care facilities, other than small family day care homes,
10 and the services for which each facility has been licensed or issued
11 a special permit. The lists shall also specify the licensed capacity
12 of the facility and whether it is licensed by the department or by
13 another public agency.

14 (b) To encourage the recruitment of small family day care
15 homes and protect their personal privacy, the department shall
16 prevent the use of lists containing names, ~~addresses~~ *addresses*,
17 and other identifying information of facilities identified as small
18 family day care homes, except as necessary for administering the
19 licensing program, facilitating the placement of children in these
20 facilities, and providing the names and addresses to resource and
21 referral agencies funded by the State Department of Education,
22 food and nutrition programs funded by the State Department of
23 Education, alternative payment programs funded by the State
24 Department of Education, county programs under the Greater
25 Avenues for Independence Act of 1985 (Article 3.2 (commencing
26 with Section 11320) of Chapter 2 of Part 3 of Division 9 of the
27 Welfare and Institutions Code), *the entity selected to provide the*
28 *trainings required pursuant to Section 1596.864*, family day care
29 organizations, or specialized health care service plans licensed
30 under the Knox-Keene Health Care Service Plan Act of 1975, as
31 contained in Chapter 2.5 (commencing with Section 1340), which
32 provide employee assistance program services that include child
33 care referral services. Upon request, parents seeking local day care
34 services may receive the names and telephone numbers of local
35 small family day care providers.

36 (c) The department, in consultation with the Child Development
37 Division of the State Department of Education, shall adopt
38 regulations relating to the confidentiality of information provided
39 pursuant to subdivision (b) on small family day care homes. These
40 regulations shall include procedures for updating lists or other

1 information on small family day care providers to ensure referral
2 only to licensed homes in good standing with the department. Any
3 person or entity violating the regulations under this subdivision
4 may be denied access by the department to information on small
5 family day care homes and shall be reported by the department to
6 the appropriate funding or licensing department.

7 *SEC. 3. Section 1596.864 is added to the Health and Safety*
8 *Code, to read:*

9 *1596.864. (a) For purposes of this section, the following*
10 *definitions shall apply:*

11 *(1) "Family child care provider" or "provider" means either*
12 *of the following:*

13 *(A) A family day care home provider, as described in Section*
14 *1596.78, who is licensed pursuant to the requirement in Section*
15 *1596.80.*

16 *(B) A person who provides child care to children, in his or her*
17 *own home or in the home of the child receiving care, under a*
18 *publicly funded child care program and who is exempt from*
19 *licensing requirements pursuant to Section 1596.792, but excluding*
20 *family child care providers who are the relatives of the children*
21 *receiving care.*

22 *(2) "Publicly funded child care program" means a program to*
23 *subsidize early learning and care for children that is administered*
24 *by the State Department of Education, the State Department of*
25 *Social Services, or another department, agency, or political*
26 *subdivision of the state, including, but not limited to, child care*
27 *voucher programs, contracted child care slots, the California State*
28 *Preschool Program, and programs established subsequent to the*
29 *passage of this section, but not including the K-12 public education*
30 *system.*

31 *(b) A family child care provider shall attend a one-time,*
32 *two-hour training on occupational health and safety risks specific*
33 *to the child care profession and how to identify and avoid those*
34 *risks to protect the provider's own health and safety and the health*
35 *and safety of the children in his or her care.*

36 *(c) The State Department of Social Services may establish a*
37 *schedule according to which all family child care providers shall*
38 *be required to complete the training in no less than four years*
39 *from when the training is first offered pursuant to this section, or*
40 *within three months of the provider becoming a family child care*

1 provider; whichever occurs later. In establishing this schedule,
2 the department shall prioritize the training of licensed family child
3 care providers.

4 (d) The training sessions required pursuant to subdivision (b)
5 shall include all of the following:

6 (1) A discussion of all of the following risks and how those risks
7 can be identified and minimized in a child care setting:

8 (A) Chemical and biological hazards.

9 (B) Infectious disease.

10 (C) Physical hazards and stress.

11 (2) Small and large group discussion.

12 (3) An opportunity for the provider to learn from current child
13 care professionals.

14 (4) Upon approval by the department based on a determination
15 that the presentations would be relevant and useful to the
16 providers, presentations by organizations that foster collective
17 engagement by providers around improving the child care system,
18 including the health and safety of providers and children, and
19 about the organizations' training and other opportunities for
20 providers.

21 (5) An opportunity for a provider to give feedback on the
22 training he or she has received.

23 (e) (1) The Department of Industrial Relations shall select an
24 entity to provide the training required in this section based on a
25 competitive process. The Department of Industrial Relations shall
26 select an entity that meets all of the following requirements:

27 (A) Has experience providing occupational health and safety
28 training, as described in this section, to family child care providers.

29 (B) Trains family child care providers to give the training
30 required by this section to other providers.

31 (C) Will provide periodic updates on health and safety matters
32 to providers who have completed the training.

33 (2) The entity selected to provide the training required by this
34 section shall develop the curriculum for the training sessions with
35 input from family child care providers. The curriculum shall be
36 reviewed and approved by the Division of Occupational Safety
37 and Health within the Department of Industrial Relations.

38 (3) The State Department of Social Services shall administer
39 the contract with the entity selected to provide the training.

1 (f) *The training required by this section shall be coordinated,*
2 *to the extent possible, with other preservice training requirements*
3 *for family child care providers, and with resource and referral*
4 *networks, so as to reduce the burden on providers.*

5 (g) *On a monthly basis, the department shall provide lists of*
6 *the family child care providers who have attended the training*
7 *and of those who are required to attend the training, but have not*
8 *yet attended, and their contact information, to the entity selected*
9 *to provide the training. The entity shall use that information for*
10 *the purpose of providing family child care providers with periodic*
11 *updates on health and safety issues and other educational*
12 *information. Upon written request of a provider, the department*
13 *shall remove the provider's home address and home telephone*
14 *number from the lists before the lists are released.*

15 (h) *The department and the entity selected to provide the training*
16 *shall comply with the Dymally-Alatorre Bilingual Services Act*
17 *(Chapter 17.5 (commencing with Section 7290) of Division 7 of*
18 *Title 1 of the Government Code), which includes, among alternative*
19 *communication options, providing the same type of training*
20 *materials in any non-English language spoken by a substantial*
21 *number of members of the public whom the department serves.*

22 (i) *This section shall become operative on July 1, 2017.*

23 SEC. 4. *No reimbursement is required by this act pursuant to*
24 *Section 6 of Article XIII B of the California Constitution because*
25 *the only costs that may be incurred by a local agency or school*
26 *district will be incurred because this act creates a new crime or*
27 *infraction, eliminates a crime or infraction, or changes the penalty*
28 *for a crime or infraction, within the meaning of Section 17556 of*
29 *the Government Code, or changes the definition of a crime within*
30 *the meaning of Section 6 of Article XIII B of the California*
31 *Constitution.*

32 ~~SECTION 1. It is the intent of the Legislature to codify the~~
33 ~~rights of child care providers who are paid to provide child care~~
34 ~~through an alternative payment program to file a complaint with~~
35 ~~the State Department of Education when a child care provider has~~
36 ~~reason to believe that the alternative payment program contractor~~
37 ~~has violated federal or state law or regulation.~~

38 ~~SEC. 2. Section 8221.6 is added to the Education Code, to~~
39 ~~read:~~

1 ~~8221.6. (a) A licensed or license-exempt child care provider~~
2 ~~who receives payment through the alternative payment program~~
3 ~~may file a complaint, alleging that an alternative payment program~~
4 ~~has not complied with federal or state law or regulation, pursuant~~
5 ~~to the Uniform Complaint Procedures set forth in Chapter 5.1~~
6 ~~(commencing with Section 4600) of Division 1 of Title 5 of the~~
7 ~~California Code of Regulations.~~

8 ~~(b) For purposes of this section, alternative payment programs~~
9 ~~are operated by contractors reimbursed under the following contract~~
10 ~~types:~~

11 ~~(1) The California Alternative Payment Program.~~

12 ~~(2) The CalWORKs Stage 2 Program.~~

13 ~~(3) The CalWORKs Stage 3 Program.~~

14 ~~(4) The Migrant Alternative Payment Program.~~

15 ~~(e) The operation of this section is contingent upon the~~
16 ~~enactment of an appropriation for this purpose in the annual Budget~~
17 ~~Act or another statute.~~